

BOIES SCHILLER FLEXNER LLP
RICHARD J. POCKER, ESQ.
Nevada Bar No. 3568
300 South Fourth Street, Suite 800
Las Vegas, Nevada 89101
Telephone (702) 382-7300

Attorney for Defendant
CALEB MITCHELL ROGERS

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No.: 2:22-cr-00064-APG-EJY
)	
v.)	STIPULATION TO CONTINUE
)	MOTION DEADLINES
CALEB MITCHELL ROGERS,)	
)	(Fourth Request)
Defendant.)	
)	

IT IS HEREBY STIPULATED AND AGREED by and between Jason Frierson, United States Attorney, and Daniel J. Cowhig, Assistant United States Attorney, counsel for the UNITED STATES OF AMERICA (hereinafter “the Government”), and Richard J. Pocker, Esq. of the law firm of Boies Schiller Flexner LLP, counsel for Defendant CALEB MITCHELL ROGERS that the parties herein shall have to and including January 23, 2023, to file any and all pretrial motions and notices of defense.

IT IS FURTHER STIPULATED AND AGREED, by and between the parties, that they have shall to and including February 6, 2023, to file any and all responsive pleadings.

IT IS FURTHER STIPULATED AND AGREED, by and between the parties, that they shall have to and including February 13, 2023, to file any and all replies in support of motions.

1 The Stipulation is entered into for the following reasons:

2 1. Counsel for Defendant ROGERS was appointed to assume his representation on
3 September 9, 2022, following the Court's granting of the Sealed Ex Parte Motion to Withdraw
4 filed by the Office of the Federal Public Defender for the District of Nevada.

5 2. Additional time is needed to review the discovery more thoroughly with
6 Defendant ROGERS, as he is intimately and actively engaged in the preparation of his case,
7 and to further investigate issues pertaining to the Government's physical evidence in this case.
8 Moreover, counsel for Defendant ROGERS has been advised by Government counsel of
9 further evidence discovered in the Government's investigation, some of which will alter the
10 evidentiary landscape of the case.

11 3. Defendant ROGERS is incarcerated pending trial and does not object to the
12 continuance.

13 4. The parties are in agreement as to the need for a continuance of the deadline for
14 filing motions, and related dates.

15 5. Counsel for Defendant ROGERS served as lead trial counsel for the
16 Respondents in the case of China Yida Holding Company v. Pope Investments, LLC, Case
17 Number A-16-746732-P, in the Eighth Judicial District Court in and for Clark County, Nevada.
18 The bench trial in that matter was conducted between September 26 and October 10, 2022,
19 consuming the attention and time of defense counsel during that time frame. Present defense
20 counsel was also engaged in another bench trial, in the matter of Rimini Street, Inc. v. Oracle
21 International Corporation, Case Number 2:14-cv-01699-MMD-DJA, pending before the
22 Honorable Miranda M. Du in the United States District Court for the District of Nevada. The
23 Oracle trial began on November 29th and extended through December 15, 2022. Present
24 defense counsel's participation in the aforementioned trials constitute another factor
25 necessitating the extension requested by this Stipulation.

26 6. The additional time requested herein is not sought for purposes of delay, but
27 merely to allow recently appointed defense counsel sufficient time within which to be able to
28 effectively and completely investigate the discovery materials provided and to research and

1 compose any necessary pretrial motions. The extensions requested will not have any impact on
2 the scheduled April 24, 2023 trial.

3 7. Additionally, denial of this request for continuance could result in a miscarriage
4 of justice. The additional time requested by this Stipulation is excludable in computing the
5 time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18,
6 United States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United
7 States Code, Section 3161(h)(7)(B)(i), (iv).

8 This is the fourth stipulation to continue the deadlines for the filing of motions.

9 DATED this 30th day of December, 2022.

10 BOIES SCHILLER FLEXNER LLP

JASON FRIERSON

United States Attorney

11
12 By: /s/ Richard J. Pocker
13 RICHARD J. POCKER, ESQ.
Counsel for Caleb Mitchell Rogers

By: /s/ Daniel J. Cowhig
DANIEL J. COWHIG
Assistant United States Attorney

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CALEB MITCHELL ROGERS,

Defendant.

Case No.: 2:22-cr-00064-APG-EJY

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER**

FINDINGS OF FACT

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. Counsel for Defendant ROGERS was appointed to assume his representation on September 9, 2022, following the Court's granting of the Sealed Ex Parte Motion to Withdraw filed by the Office of the Federal Public Defender for the District of Nevada.

2. Additional time is needed to review the discovery more thoroughly with Defendant ROGERS, as he is intimately and actively engaged in the preparation of his case, and to further investigate issues pertaining to the Government's physical evidence in this case. Counsel for Defendant ROGERS has also been advised that additional critical evidence will be provided by the Government this week.

3. Defendant ROGERS is incarcerated pending trial and does not object to the continuance.

4. The parties are in agreement as to the need for a continuance.

5. Present defense counsel served as lead trial counsel for the Respondents in the case of China Yida Holding Company v. Pope Investments, LLC, Case Number A-16-746732-

P, in the Eighth Judicial District Court in and for Clark County, Nevada. The bench trial in that matter was conducted between September 26 and October 10, 2022, consuming the attention and time of defense counsel during that time frame. Present defense counsel was engaged in another bench trial, in the matter of Rimini Street, Inc. v. Oracle International Corporation, Case Number 2:14-cv-01699-MMD-DJA, pending before the Honorable Miranda M. Du in the United States District Court for the District of Nevada. The Oracle trial began on November 29th and extended through December 15, 2022. Counsel for Defendant ROGERS' participation in the aforementioned trials constitute another factor necessitating the extension requested by this Stipulation.

6. The additional time requested herein is not sought for purposes of delay, but merely to allow recently appointed defense counsel sufficient time within which to be able to effectively and completely investigate the discovery materials provided and to research and compose any necessary motions. The requested extensions will not have any impact on the scheduled April 24, 2023 trial date.

7. Additionally, denial of this request for continuance could result in a miscarriage of justice. The additional time requested by this Stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code, Section 3161(h)(7)(B)(i), (iv).

CONCLUSIONS OF LAW

The ends of justice served by granting said continuance outweigh the best interest of the public and the defendant in a speedy trial, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the opportunity within which to be able to effectively and thoroughly prepare motions, taking into account the exercise of due diligence.

The continuance sought herein is excludable under the Speedy Trial Act, Title 18, United States Code, Section § 3161(h)(7)(A), when considering the factors under Title 18, United States Code, § 3161(h)(7)(B)(i), (iv).

ORDER

IT IS THEREFORE ORDERED that the parties herein shall have to and including January 23, 2023, to file any and all pretrial motions and notice of defense.

IT IS FURTHER ORDERED that the parties shall have to and including February 6, 2023, to file any responses.

IT IS FURTHER ORDERED that the parties shall have to and including February 13, 2023, to file any and all replies.

IT IS FURTHER ORDERED that the currently scheduled calendar call set for April 18, 2023 shall remain in effect, and the trial shall remain scheduled for April 24, 2023 at 9:00 a.m. in Courtroom 6C.

IT IS FURTHER ORDERED that trial briefs, proposed voir dire questions, proposed jury instructions, and a list of the Government's prospective witnesses must be electronically submitted to the Court by the 18th day of April, 2023.

DATED January 3, 2023


UNITED STATES DISTRICT JUDGE